

Appln. No. 10/735,313
Amdt. dated June 14, 2006
Reply to Office Action of Jan. 23, 2006

REMARKS/ARGUMENTS

This amendment is submitted in an earnest effort to advance the case to issue without delay.

Claim 1 has been amended to specify that the human activation for opening flow is manual pressure applied in a radial direction parallel against an outermost end of the radially oriented projecting portion. Support may be found at page 7 (lines 6 – 7), element 246 and Fig. 8. Also see page 3 (lines 4 – 6).

Claims 1, 6 and 9 were rejected under 35 U.S.C. 102(e) as anticipated by Ruth, et al. (U.S. Patent Application 2004/0188372 A1). Applicant traverses this rejection.

The Examiner has noted the attachment at 7 with a valve and a single projecting portion 16 to open and close the valve.

Valve device 7 operates at its outermost end through a knob 16. The knob is supported on valve stem 15 which communicates with a needle valve element 14. Activation of valve device 7 begins with rotation of knob 16 in a direction perpendicular to the valve stem 15 and needle valve element 14. By contrast, Claim 1 as now amended specifies activation that begins with manual pressure applied in a radial direction parallel against an outermost end of the projecting portion. The parallel direction of applied manual pressure is not shown in Ruth, et al. This reference cannot therefore anticipate the claims.

Claims 1, 2 and 6 – 9 were rejected under 35 U.S.C. 103(a) as unpatentable over Newton (U.S. Patent No. 2,745,568) or Wagner (U.S. Patent No. 4,856,995) in view of

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Soltesz, et al. (U.S. Patent No. 2,836,321). Applicant traverses this rejection.

Breast milk and infant formula have significant economic value. It would be desirable to be able to store nursing bottles with partially used milk or formula. However, the storage of such partially used fluids is inadvisable because bacteria present in an infant's saliva may ooze through the nipple into the milk remaining in the bottle. This increases the rate of spoilage in the remaining milk. The spoilage problem has been resolved through the present invention. Herein, a dual chamber nursing bottle is provided. The small chamber is adjacent the nursing nipple. A valve means allows communication between the dual chambers. This valve means has a first position normally closed for preventing milk or formula in the second chamber from entering the first chamber. There is also a second position of the valve means requiring human activation for opening to allow flow of the milk or formula from the second to the first chamber. The valve means includes a projecting portion radially oriented relative to the flow of the milk or formula and disposed outwardly through a single aperture in a wall of an attachment means. Further, valve means through human interaction opens fluid flow by manual pressure applied in a radial direction and parallel against an outermost end of the projecting portion.

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Newton seeks to reduce the amount of sucking which must be performed by an infant in consuming the contents of a nursing bottle. Additionally, Newton seeks to drain liquid from the nipple compartment when the bottle is in a non-feeding position; this lessens the possibility of reaction between the liquid and the nipple, and induces uniform cooling of all of the liquid in the bottle. See the reference at Col. 1, lines 56-64.

Based on the aforementioned descriptions of the Newton objectives and those of the present invention, it must be evident that different mechanisms are required to address the quite different objectives.

In an earlier Office Action, the Examiner focused attention on Figures 13 – 15 of the reference. These figures illustrate a projecting portion (bar 65) which blocks opening 61 leaving return valve opening 66 in communication register allowing milk/formula to flow out of the reservoir A and into the nipple chamber C. Thus, Newton describes a valve means with a first position that is open rather than being normally closed.

Further, the Newton bar 65 traverses through two apertures in the walls of the attachment means (cap 60-63). Two apertures are found 180° distant from one another on opposite sides of the nursing bottle. Bar 65 fits through both apertures. By contrast, the present invention provides for a single aperture in a wall of the attachment means.

Wagner discloses a nursing bottle with a pair of reservoirs which are selectively coupleable to a single nipple. An objective of Wagner is to reduce the risk of tooth decay resulting from liquids delivered through nursing bottles. These inventors have realized

that children often reject plain water, preferring the sweet liquids. Exposures are particularly dangerous when a child is given the bottle at bedtime or prior to napping.

Wagner solves this problem with the dual reservoir nursing bottle. Upon falling asleep and while the child is still sucking the nipple, a parent switches via a valve plate aperture fluid flow from the first reservoir with sweetened liquid to the second reservoir containing non-sugared liquid.

Wagner suffers from many of the same deficiencies as those described regarding Newton. Wagner is concerned with a different problem from that of the reference. As a consequence, the technical solution is different. Wagner operates with a valve means totally different in structure and function from that presently claimed. There is no disclosure of a valve means with a radially oriented projecting portion disposed outwardly through a single aperture in a wall of the attachment means. Wagner requires a pair of apertures in Fig. 9 to accomplish a valve function.

In summary, both Newton and Wagner as primary references are lacking in several respects to render the instant invention obvious. Neither of the references has the same objective as that of the presently claimed invention. These references do not provide mechanisms to eliminate the spoilage of remaining milk in a partially drawn down nursing bottle. Pursuant to a different problem, there also has been a different mechanical solution. Most importantly, the presently claimed invention requires a first position of the valve means as normally closed. Human activation is required for

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opening of the valve means to allow flow of fluid when the valve means is in a second position. Both Newton and Wagner have a first position that is normally open. The valve means in these references can, at some further time, be closed through human activation. Closure in Newton is apparently done by alternating flow from the milk or other sugar carrying liquid reservoir to another reservoir that delivers a sugar-free liquid, possibly fluoridated water. See Col. 6, lines 1-5. Newton operates bar 65 to block opening 61 so that the return valve 37 can continue with food flow for feeding the infant. In the non-feeding position, the return valve means is manually opened by moving bar 65 axially so that openings 61 and 66 are in register. See Col. 9, lines 29-35.

Structurally, Newton is also distinguished from the present claims by having more than a single aperture through which the projecting portion (bar 65) exits outwardly. Fig. 9 of Wagner similarly illustrates a pair of apertures through which cylindrical plug 68B projects.

Soltesz, et al was introduced by the Examiner as revealing a valve portion having a single aperture with a single projecting portion at 33 and knob at 34. It was the Examiner's belief that the valve means of either Newton or Wagner could be substituted with a single aperture having a single projection portion with a knob to push and pull the portion as reported in Soltesz, et al.

In Soltesz et al., continuous manual pressure applied in a radial direction against projecting portion 33/knob 34 closes the valve. The slide bar 32 covers the valve channel

12. See Fig. 9.

By contrast, the present invention as defined by the claims requires radially applied manual pressure to open the valve. A normally closed position is important for the present invention. This is not essential for Soltesz, et al. In this reference, there is no continuous manual pressure that is required to overcome the elastomerically induced normally closed first position. The Soltesz slide bar 32 is slideably moved from one position to another. Yet, this movement does not maintain a closed position under compressed elastomeric pressure. By the term "elastomeric" is meant through any elastic action of a rubber component, or the like. Indeed, a deficiency common to Newton and Wagner and Soltesz, et al is a failure to teach or suggest a first position normally elastically closed. Opening the valve to begin flow requires continuous manual pressure against a projecting portion controlling the valve of the present invention. The aforementioned references operate changeover from a closed to an open position without the requirement of a continuous manual pressure. Once in the open position, the valve needs no further continuous manual pressure to remain open. For these reasons, the skilled technician would not have arrived at the present invention through consideration of these references.

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Claims 3, 8 and 11 were rejected under 35 U.S.C. 103(s) as unpatentable over the references as applied to Claim 1, and further in view of Chaffin (U.S. Patent No. 5,711,452). Applicant traverses this rejection.

Chaffin was cited by the Examiner for teaching a projecting portion with a biasing spring, i.e., flanges 42, within a recess.

Chaffin has provided a coffee mug that avoids spillage during motion in a car or otherwise. Essential to operation of the Chaffin valve are a pair of helical spring elements 58. By contrast, Applicant's Claim 1 is not helical spring loaded. The presently claimed valve system is rubberized, i.e., an elastomeric valve means. See page 2, last paragraph.

Neither Newton, Wagner, Soltesz, et al. nor Chaffin disclose the elastomeric valve in accordance with Claim 1. For this reason, Claim 1 and its dependent claims are considered patentable.

Claims 10 and 12 were objected as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

Applicant thanks the Examiner for the indication of allowable subject matter. A new independent Claim 13 reflects the combination of Claims 1 and 10. Thus, Claim 13 and its dependent Claim 12 should now be in condition for allowance.



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Please charge the two month extension fee in the amount of \$225.00 to the undersigned's Deposit Account No. 13-1140.

In view of the foregoing amendment and comments, the Examiner is requested to reconsider those claims which still remain rejected.

Dated: June 14, 2006

Respectfully submitted,

MALINA & ASSOCIATES, P.C.

By:

A handwritten signature in black ink, appearing to read "Bernard Malina".

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